

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ROOSEVELT ROSE,	:	
	:	<b>REPORT AND</b>
Plaintiff,	:	<b>RECOMMENDATION</b>
	:	<b>TO THE HONORABLE</b>
-against-	:	<b><u>JED S. RAKOFF</u></b>
OFFICER BIBLIARI, # 7050, <u>et al.</u> ,	:	05 Civ. 9445 (JSR)(FM)
Defendants.	:	

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**FRANK MAAS**, United States Magistrate Judge.

This pro se civil rights action is brought by a former detainee at Riker's Island who alleges that the defendant correction officers assaulted him and denied him access to medical care. Because the plaintiff has not maintained contact with the Court, I recommend that the case be dismissed without prejudice.

As the docket sheet reflects, the case was referred to me on November 11, 2005. Thereafter, in early July 2006, I scheduled an initial pretrial conference for July 21, 2006. The plaintiff failed to appear for this conference. On July 26, 2006, I therefore reported and recommended to Your Honor that this case be placed on the inactive docket (sometimes called the suspense calendar) for a period of six months, during which time it would be reinstated if the plaintiff advised the Court of his whereabouts.

Before Your Honor ruled on my recommendation, I received a letter from an Assistant Corporation Counsel on October 26, 2006, informing me that the plaintiff

had advised her that he was at the Atlantic Avenue Men's Shelter, 1138 Bedford Avenue, Brooklyn, New York 11216. Accordingly, on October 30, 2006, I issued a Second Order for a Rule 16(a) Conference which was calendared for November 30, 2006. This Order was mailed to the plaintiff at the shelter by First Class and Certified Mail. Because both copies of the Order were returned to my Chambers by the Postal Service, we contacted the Department of Homeless Services and thereafter sent copies of the Order by First Class and Certified Mail to the Bedford-Atlantic Men's Assessment Center, 1322 Bedford Avenue, Brooklyn, New York 11216, which is where we were advised he was staying. Neither of these mailings was returned to my Chambers.

Despite these efforts, the plaintiff once again failed to appear at the conference on November 30, 2006. Defense counsel also represented to the Court that her own efforts to locate the plaintiff were unsuccessful. Accordingly, because (i) we have no way to contact the plaintiff, (ii) this is the second instance in which the plaintiff has failed to appear for a conference, and (iii) he has not taken steps to prosecute this action, I recommend that this case be dismissed without prejudice.

Notice of Procedure for Filing of Objections to this Report and Recommendation

The parties shall have ten days from the service of this Report and Recommendation to file written objections pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure. See also Fed. R. Civ. P. 6(a) and (e). Any such objections shall be filed with the Clerk of the Court, with courtesy copies delivered to the chambers of the Honorable Jed S. Rakoff, United States District Judge, and to the

chambers of the undersigned, at the United States Courthouse, 500 Pearl Street, New York, NY 10007, and to any opposing parties. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6(a), 6(e), 72(b). Any requests for an extension of time for filing objections must be directed to Judge Rakoff. The failure to file these timely objections will result in a waiver of those objections for purposes of appeal. See Thomas v. Arn, 474 U.S. 140 (1985); 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6(a), 6(e), 72(b).

Dated: New York, New York  
December 4, 2006

  
FRANK MAAS  
United States Magistrate Judge

Copies to:

Hon. Jed S. Rakoff  
United States District Judge

Roosevelt Rose		
Atlantic Avenue Men's Shelter	and	Bedford-Atlantic Men's Assessment Shelter
1138 Bedford Avenue		1322 Bedford Avenue
Brooklyn, NY 11216		Brooklyn, NY 11216

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